

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE

Call to Order: By **CHAIRMAN JEFF PATTISON**, on January 31, 2003 at 8 A.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Rep. Jeff Pattison, Chairman (R)
Sen. Bill Tash, Vice Chairman (R)
Sen. Edward Butcher (R)
Rep. John Musgrove (D)
Sen. Linda Nelson (D)
Rep. Rick Ripley (R)
Sen. Debbie Shea (D)

Members Excused: None.

Members Absent: None.

Staff Present: Kelly Gorin, OBPP
Gary Hamel, Legislative Branch
Elaine Olsen, Committee Secretary
Doug Schmitz, OBPP

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape time stamp refers to the material which follows.

Committee Business Summary:

Hearing & Date Posted: None
Executive Action: Fish Wildlife and Parks Budget

All votes are voice votes unless otherwise indicated.

{Tape: 1; Side: A; Approx. Time Counter: 1 - 11}

Dan Ellison, Department of Fish Wildlife and Parks(FWP) , submitted a history of proprietary rates. **CHAIRMAN PATTISON** asked why the grounds maintenance per mile rate went from \$0.55 in 2000 to \$0.80 in 2003. **Dan Ellison** replied that the expenses related to the snow removal equipment had risen steadily. **REP. RIPLEY** asked for confirmation that the request was for an increase to \$0.95 in 2004 and \$1.00 in 2005. **Dan Ellison** stated that was correct.

EXHIBIT(jnh21a01)

EXHIBIT(jnh21a02)

Motion/Vote: **REP. MUSGROVE** moved proprietary rates DO PASS. Motion failed 3-4 with **SEN. SHEA**, **SEN. NELSON**, AND **REP. MUSGROVE** voting aye.

Motion/Vote: **REP. RIPLEY** moved that PROPRIETARY RATES STAY AT THE CURRENT RATE DO PASS. Motion carried 7-0.

{Tape: 1; Side: A; Approx. Time Counter: 11 - 18}

DP201

Gary Hamel discussed DP201, a request to restore one-time-only (OTO)funding for block management. The executive budget includes authority to expend block management funding generated by the variable price big game license. The 2001 Legislature enacted SB285 which established \$802,000 in new revenue from the sales of hunting licenses for the program which includes two FTE for seasonal block management technicians. The funds did not become available until FY03.

Gary Hamel stated the proposal by the Department was reduced from \$802,000 each fiscal year to \$733,000 each fiscal year. The proposal does involve two FTE.

CHAIRMAN PATTISON asked how long the FTE had "been in there."

Alan Charles, FWP, replied that SB285 was passed in 2001 so the allocation had been in place for one biennium. **CHAIRMAN PATTISON** asked if the proposal had been reduced from \$802,000 to \$733,000 a year. **Alan Charles** replied that the revenue actually generated by the sale of the hunting access enhancement fee in the first year was \$733,000 but the original fiscal note had projected \$806,000.

Motion: SEN. TASH moved that DP201 AT HALF OF THE PROPOSED FUNDING DO PASS.

Discussion:

SEN. TASH stated that the Block Management program had been successful to a large degree, but he questioned if it still satisfied the purpose and intent of SB285. More incentives should be offered to absentee land owners, and more current participants should be retained. CHAIRMAN PATTISON asked for clarification on the amount of funding in the motion. SEN. TASH stated he intended for the amount to be half of the \$800,000.

Gary Hamel stated that SEN. TASH'S motion would reduce the funding to \$401,000 each year.

REP. MUSGROVE asked for clarification on the term "fee increase."

Jeff Hagener, Director, FWP, stated that with the proposed reduction, the Department would be cutting back substantially on all the new landowners enrolled last year under SB285. The funding attached to the funding request allowed for an increase from \$8,000 to \$12,000 in the amount paid to the landowners if they had the weed control co-incentive. The number of operators participating had increased to over 1000, and the reduction in funding would drop that back to about 800.

CHAIRMAN PATTISON asked Director Hagener for his comments on landowners that drop out of the Block Management program. Director Hagener confirmed that a few participants drop out each year. This last year a lot more operators wanted to come into the program than the Department had money for.

SEN. TASH asked if more landowners in eastern Montana participated than in western Montana. Director Hagener referenced a map given to the Committee previously and confirmed that because of the larger ranch properties, there are more participants in eastern Montana.

SEN. TASH asked if an effort was being made to encourage more participation in the Upland Bird Block Management program. Director Hagener mentioned that DP202 is for the spending authority for funds that are coming into block management accounts to be used in enrolling more operators in the program.

{Tape: 1; Side: A; Approx. Time Counter: 18 - 30}

CHAIRMAN PATTISON asked about the differences between DP201 and DP202. **Alan Charles** stated that DP201 refers to legislation that created a hunter access enhancement fee, a new source of funding. Residents pay \$2 and nonresident hunters pay \$10. The Department was directed to increase incentives to landowners to enroll in the Block Management program, increasing the cap paid to landowners from \$8,000 to \$12,000, plus a five percent increase to all landowners in the program to put the money into weed incentive payments. The Private Land Public Wildlife Council also gave direction that the money should be used to expand the program, involve more acres, more landowners, and provide better management of the program through more seasonal patrollers out on the land thus helping landowners manage the hunting activities.

Alan Charles stated that DP202 references additional revenue that is generated by an increase in price on the variable price licenses. The license price had increased in the previous year, and more revenue was generated. That money would be used state-wide in areas where it is needed whether for upland birds or elk management.

Gary Hamel said he understood that not all of the spending authority in DP202 was expended in 2002, and therefore DP202 was partly an increase to re-establish the base. **Alan Charles** stated that was correct. The money was not fully expended in the first year because the Department phased in the program. **Gary Hamel** asked if the amount was attributable to increased revenue and because during the base year the funds were not fully expended. **Alan Charles** said that was correct.

SEN. TASH asked if DP202 could be used to accomplish the purpose of DP201. **Alan Charles** stated that DP202 addresses the fact that funds are being expended to enroll landowners to expand the services. Landowners have been enrolled, and payments have been increased and incentives have been increased. If the decision packages are not approved, then the enrollment, payments and incentives will have to be cut back.

Gary Hamel said the funding for both of the decision packages is Program 2334, Market-based Combo Sales. Both of those decision packages could be used interchangeably for whatever function. If the Department decides to use it for one purpose or the other, they could do that.

REP. MUSGROVE asked if a fee was being decreased, or if the Committee was preventing a fee increase. **CHAIRMAN PATTISON** said that the Market-based Combo is a new source of revenue, so FWP is

enacting a new fee on this. What the Department is doing is similar to the General License account where a fee is enacted and then is spent on those other areas.

Kelly Gorin, OBPP, said that the money is already in the bank, and the Committee is not allowing the Department to spend what is there.

Alan Charles said DP201 referred to a new fee that was created in 2001 by SB285 which created a Hunting Access Enhancement fee that all hunters would pay. It was designated for use in this program. Residents pay \$2 and non-residents pay \$10 when they purchase their initial hunting license each year.

CHAIRMAN PATTISON asked how much was in the fund balance at this time. **Gary Hamel** reported that at the end of FY2002 the balance was approximately \$5 million.

CHAIRMAN PATTISON asked for verification that the fund is at \$5 million, and the Department is asking to spend \$733,000 a year. **Alan Charles** stated that DP201 would restore authority for \$733,000 which was not spent in the base year. **Director Hagener** said that the balance is a fiscal year-end balance, ending June 2002. Pay-outs start after that time. The bulk of the licenses are sold in the fall. The balance varies greatly depending on the time of the year.

CHAIRMAN PATTISON asked how much the Department spent from the fund last year. **Alan Charles** stated that \$5 million was the amount spent last year.

SEN. BUTCHER clarified that the sportsmen are already paying the fee, and without authorization to spend the money, the fund would just grow.

REP. MUSGROVE stated that the Committee should be careful not to get in a position that they are micro-managing the Department.

{Tape: 1; Side: B; Approx. Time Counter: 1 - 6}

SEN. NELSON asked why the program had been funded on a one-time-only(OTO) basis in the last session. **Director Hagener** replied that the Subcommittee had approved the legislation as an OTO contingent on passage of the bill. The funds have been carried through as an OTO since that time. The original bill has a sunset date of 2006. **SEN. NELSON** commented that since the

funding is attached to a Legislative bill, it may be statutorily required.

CHAIRMAN PATTISON asked if SB285 set the fees as a part of the original bill, and if the fee rates were established statutorily also. **Alan Charles** stated that was correct.

SEN. NELSON asked for confirmation that the FTE were in the bill also. **Alan Charles** said that was correct.

SEN. TASH called for the question on his motion, confirming that his motion was to cut the appropriation in half.

SEN. BUTCHER stated that the money is being collected, and the money is to go out to the project. **Gary Hamel** stated that the statute requires that the Department collect the fee. However, it is not statutorily required that the Committee spend the money. If the Committee does not authorize the expenditure of the funds, the fees will continue to build up in the fund. The Committee can reduce the fee.

SEN. BUTCHER said that the fees are dedicated to that project and cannot be used for any other project. **Gary Hamel** said the Committee could direct a portion of the money for a specific purpose within the Block Management program.

SEN. BUTCHER suggested that **SEN. TASH** might be able to address his concerns by targeting certain areas within the Block Management program.

{Tape: 1; Side: B; Approx. Time Counter: 6 - 12}

SEN. TASH withdrew his motion and moved to approve the DP contingent on DP202, and what could be done to satisfy statutory requirements.

SEN. BUTCHER asked if both decision packages should be directed in a manner that **SEN. TASH** had indicated. **Gary Hamel** said that since both of the decision packages are funded from the same source, the Committee could direct or limit the spending to a certain purpose within the Block Management program.

In response to a comment from **SEN. BUTCHER**, **SEN. TASH** stated that it would behoove the Department to come up with Block Management provisions and incentives to encourage both resident or absentee landowner participation. He stated he was unsure how to accomplish that within the provisions of the two decision

packages, but it appeared the money was accumulating and was not accomplishing the purpose that was intended. It needs to be revisited.

DP201

Doug Schmitz said he felt that DP201 was tied to SB285. It directs the Department what they can do and cannot do with the money. The Department is allowed to charge an extra fee that is going into this account. The Committee could make the decision package OTO and require the Department to report back to the Committee next session on how they handled those monies.

{Tape: 1; Side: B; Approx. Time Counter: 12 - 15}

REP. RIPLEY said he did not remember that the two FTE were a part of the original legislation. **Alan Charles** said it was a clear direction from the Council after two years of effort that there should be more than just adding money into the program and adding acreage. There was concern about how well those acres were being managed, how well the acreage is being signed, and how well the areas are patrolled. As an increase in funding was made available, the Council wanted an increase in service and management.

Director Hagener said that the bill did not specifically dictate FTE. When the Department requested authority for spending from the Subcommittee, it was approved to spend the money including the two FTE.

SEN. BUTCHER stated that some landowners require management assistance as a criterion before participating in the program. The main issue is getting the land opened for hunting for the sportsmen.

Alan Charles said that the sunset date of March 1, 2006, applies to the funding and the program authority. The Governor's Private Land Public Wildlife Council will review and evaluate the existing program and existing funding source. They will then report back to the Legislature and the Subcommittee with recommendations concerning those sunsets. The next two years will involve a thorough review of the program, how it works, the services and the people involved. That will offer an opportunity for all interested parties to be able to participate in that and address legislation. The two FTE translate into ten seasonal employees who can provide services to many landowners. Within the program the Department has the authority to offer services and compensation. Of the 1,151 landowners who participate, many opt for services.

{Tape: 1; Side: B; Approx. Time Counter: 15 - 25}

SEN. TASH withdrew his motion to approve DP201 contingent on DP202 and statutory requirements.

CHAIRMAN PATTISON said that statutorily the money goes into the fund and is to be expended for the Block Management program. Statutorily there are no FTE included specific to the program.

Motion: **REP. PATTISON** moved that **RESTORE ONE-TIME-ONLY THE FUNDING FOR THE GRANT MANAGEMENT PROGRAM BUT REMOVE THE TWO FTE FROM THE REQUEST DO PASS.**

SEN. TASH said that language in the motion specific to targeting the absentee landowners for participation in the program was a sensitive area.

REP. MUSGROVE suggested that with OTO oversight on the decision package, the Committee could rely of the Department to follow through. **Gary Hamel** stated that the Committee could require the Department to report at any interval that the Committee chooses.

SEN. NELSON read a portion of the proposal which stated that the 2001 Legislature enacted SB285 which established \$802,000 of new revenue from the sale of hunting licenses and two FTE for the Block Management positions. **Gary Hamel** stated that it was the Subcommittee which established the funding.

SEN SHEA asked Gary Hamel if the funding for the two FTE came from the \$802,000 and how much the positions would cost. If the positions were not funded, the State Special Revenue would just accumulate. **Gary Hamel** said the FTE would cost \$34,731 for each position. If the money was not expended for FTE, the level of the decision package could remain the same, and the money could still be spent.

Kelly Gorin stated that this program is already on the ground and the seasonal FTE are in place. **Director Hagener** confirmed that several of the seasonal FTE were hired for Block Management. Several of the contracts are for one or two years, so that the expectation is that they would have been providing that service the next fall. **Gary Hamel** stated it was his understanding that the Department could request modified FTE. The FTE would not show up on the budget, but the funds could be expended for their services.

CHAIRMAN PATTISON said that he would proceed with his motion with the two FTE removed and changed them to "modified." This would allow the Department to have modified positions. **CHAIRMAN PATTISON** said, "I am just trying to get rid of the permanent FTEs."

Motion/Vote: REP. PATTISON moved that RESTORE ONE-TIME-ONLY FUNDING FOR THE GRANT MANAGEMENT PROGRAM BUT REMOVE THE TWO PERMANENT FTE FROM THE REQUEST ALLOWING THE DEPARTMENT TO FILL THE POSITIONS AS MODIFIED IF NEEDED DO PASS. Motion carried 7-0.

{Tape: 1; Side: B; Approx. Time Counter: 25 - 30}

DP202

Gary Hamel said that DP202 is a request to restore the Block Management authority to a level authorized in the 2001 session. Not all of the budget authority was expended in FY02, and this adjustment would annualize the authority. The Department had underspent their previous appropriation, and they are now requesting the full amount of that appropriation.

SEN. BUTCHER asked the Department if they had the program lined out so that there will be enough cooperators and that extra acreage will be coming online. **Director Hagener** said that the program had been phased in, and enough additional contracts are being considered that the entire amount will be expended.

SEN. BUTCHER asked what the average cost per acre is program-wide. **Alan Charles** said the Department had 8.8 million acres under contract with total funding of \$5.5 million. The average contract with a cooperator is about \$3,000.

{Tape: 2; Side: A; Approx. Time Counter: 1 - 10}

CHAIRMAN PATTISON asked **Director Hagener** how the Department would address SEN. TASH'S concern over including more absentee landowners in the Block Management program.

Director Hagener said that traditional Montana landowners have been involved in the program. The Department has focused on absentee landowners in many cases to try to bring them into the program. In one specific case, the warden in the area has helped to establish rapport with the landowner. On the Flying E Ranch, the absentee landowner is allowing 200 to 300 cow permits.

Director Hagener said that the dollar value of a contract means little to the landowner, but the services available through Block

Management are more important. The Department is trying to work with relators so that when people come into Montana they understand there is a little different tradition here. Issues such as wildlife populations and weeds affect neighbors.

SEN. TASH said he appreciated the efforts the Department has been making and commented especially on the "ground up" approaches which educate neighbors. How best to achieve a good balance, cost effectively, and respect the license dollars is the charge to the Committee.

SEN. BUTCHER commented that he had confronted an absentee neighbor on the issue of absentee landowners not allowing hunting. Once the problems were made clear, the situation was improved.

{Tape: 2; Side: A; Approx. Time Counter: 10 - 19}

Motion/Vote: REP. RIPLEY moved that DP202 DO PASS. Motion carried 7-0.

DP203

Gary Hamel said that DP203, Game Damage Restoration, was a request to restore full funding.

Motion/Vote: SEN. NELSON moved that DP203 DO PASS. Motion carried 7-0.

DP204

Gary Hamel said that DP204 was a request for authority to cover projected increases in leases paid on wildlife management areas state parks, fishing access sites, and lands owned by other Departments. The funding is from the Coal Tax Trust Account and the General License account.

SEN. BUTCHER asked what for the total amount of increase. **SEN. TASH** said that part of the increase was for the Blackfoot Clearwater Wildlife Management Area which includes leases with the Department of Natural Resources and Conservation(DNRC). **Glenn Erickson** said the increase is for the Blackfoot Clearwater lease for \$20,000 and for Thompson Falls State Park DNRC lease for \$10,000. The total for all leases is \$67,000.

Motion/Vote: SEN. SHEA moved that DP204 DO PASS. Motion carried 7-0.

DP205

Gary Hamel said that DP205, Net Client Hunting Use, would reestablish budget authority of \$40,000 of General License account each year of the fiscal 2005 biennium with which to

calculate impacts of net client hunting use as required in SB334 enacted by the 1999 Legislature.

Motion/Vote: REP. MUSGROVE moved that DP205 DO PASS. Motion carried 6-1 with REP. RIPLEY voting no.

DP207

Gary Hamel addressed DP207, the Internal Service Rate Adjustment. The Committee could make one motion for all of the internal service rate adjustments. The adjustments are for increased authority for managing a fleet of vehicles and aircraft for Department use. The funding is from Market-based Combo license sales and the General License account and the request is for \$24,212 in FY04 and \$19,193 in FY05.

Director Hagener referenced the exhibit, stating that the Department's requested rates are less than the motor pool rates.

Motion/Vote: SEN. NELSON moved that DP207 DO PASS. Motion carried 7-0.

DP208

Gary Hamel said that DP208 was a request for one-time-only adjustment to restore the base budget in order to meet anticipated tax liabilities of \$139,000 per year.

SEN. BUTCHER asked what the Department was paying taxes on.

Director Hagener said the Department paid taxes on the Department's properties except for state parks like any other property owner. **SEN. TASH** asked if he misunderstood "payment in lieu of tax." **Director Hagener** said that the tax payments are often referred to that way, but these are property taxes just like anyone else would pay.

{Tape: 2; Side: A; Approx. Time Counter: 19 - 25}

Motion/Vote: SEN. NELSON moved that DP208 ONE-TIME-ONLY DO PASS. Motion carried 6-1 with PATTISON voting no.

SEN. BUTCHER asked what properties were exempted from the county taxes. **Glenn Erickson** said exempt properties are those in any county where the Department has less than 100 acres, hatcheries, game farms and game bird farms owned by the Department, and state parks. The Department does pay assessments on parks, but not taxes.

DP212

Gary Hamel said that in DP212 was a request for a technical adjustment required by the state budget system in order to carry

the existing divisional biennial appropriation of \$65,000 for public wildlife interface into FY04 and FY05.

Motion/Vote: SEN. SHEA moved that DP212 DO PASS. Motion carried 7-0.

{Tape: 2; Side: A; Approx. Time Counter: 25 - 30}

DP214

Gary Hamel said that DP214 was a request to restore base operations in the Field Services Division. During FY02 several positions were vacant for extended periods resulting in an under spending of related operations. The request is \$46,250 from the General License account for each year of the biennium and would fully fund operations for those positions.

CHAIRMAN PATTISON asked for clarification on what base operations entailed. **Glenn Erickson** stated that during the base year a lands agent position, the Design and Construction bureau chief position, and a project manager position were vacant for a long time. Operations were not expended for those three positions. The request is for funding for their operations expenditures. Work was delayed significantly.

SEN. TASH asked what the land agents duties entailed. **Glenn Erickson** said that the job included real estate type functions, negotiating easements, responding to questions regarding easements, and working with counties on documents. **SEN. TASH** asked if part of the job included charitable contributions such as recruiting participation in conservation easements. **Glenn Erickson** confirmed that the job included that type of cooperative work on purchases or easements. **Glenn Erickson** said that work on those type of projects would be reduced without the funding.

REP. RIPLEY asked how long the positions had been vacant.

{Tape: 2; Side: B; Approx. Time Counter: 1 - 4}

Glenn Erickson said the positions were vacant for about six months.

Glenn Erickson clarified that the decision package was not a request for additional FTE but was a request for funding for their operations expenses. **Doug Schmitz** said that there are no FTE in the request. The FTE are fully funded, and these are the operational costs associated with those FTE doing their jobs.

CHAIRMAN PATTISON called for a motion on DP214, a request to restore base operations in the Field Services Division. No motion was made.

(The Committee took no action on DP214.)

DP209

Gary Hamel said that DP209 was a new proposal for a Land Staff FTE. The request is for .5 FTE to address property management issues associated with the Department fee title and conservation easement lands program. The request is for \$21,740 and \$20,196 each year of the biennium with funding coming from the Habitat Fund trust interest.

CHAIRMAN PATTISON asked if a .5 FTE would help the Division respond to requests in a timely fashion. **Glenn Erickson** said that the Division had estimated that the requests could be met with this FTE.

CHAIRMAN PATTISON called for a motion on DP209, a request for funding for a .5 FTE in the Lands Division. No motion was made.

(The Committee took no action on DP209.)

{Tape: 2; Side: B; Approx. Time Counter: 4 - 13}

DP210

Gary Hamel said that DP210 was a request for General License authority for a pilot project to provide technical services to private land owners related to wildlife management on their lands. The project would help landowners integrate wildlife concerns on their land management decisions. Funding would be \$40,000 each year of the biennium from the General License account.

CHAIRMAN PATTISON suggested that if the program is approved, it could be funded from the market-based combo license. **Gary Hamel** said that if the funding was changed to the market-based Combo sales, the services provided would have to meet those defined in the Block Management program. **Director Hagener** said that the services would have to fall within the context of the Block Management. With the way the funds are earmarked, they cannot be used for something else.

SEN. BUTCHER asked how many problems the Department had in this area. **Director Hagener** said that the intent of the project is to do more outreach and to encourage new people to participate.

SEN. TASH stated that he felt that game management is a criteria to be considered in the Block Management program. In order to encourage participation in Block Management programs, these types of services are necessary. **Gary Hamel** said that some of the services in the proposed project could fall within the confines of the Block Management definition. **Gary Hamel** asked who would be providing the "contacted services" stated in the project proposal.

Glenn Erickson said that the \$40,000 for technical services would be money the Department could use to assist private landowners in areas such as fencing. **Gary Hamel** said the decision package is coded into contracted services, and based on the explanation of the project, it would appear that the majority of the project would fall within the context of the Block Management program.

SEN. BUTCHER asked if landowner participants had to open the land to hunting. **Glenn Erickson** said that would be a consideration because the project is funded by sportsmen's dollars. What is being discussed is not game damage.

{Tape: 2; Side: B; Approx. Time Counter: 13 - 24}

CHAIRMAN PATTISON suggested that the Department might explore funding through the market-based Combo license. **Director Hagener** suggested that Habitat Montana money might be used for this sort of project and suggested that the Committee postpone action on the decision at this time.

CHAIRMAN PATTISON said that the Committee would postpone action on DP210 and DP211.

DP8213

Gary Hamel said that DP8213, the general recreational use of state lands, was spending authority for funds that are proposed in SB130. The exact amount of the funding has not been established. **Gary Hamel** raised the issue of reducing the General License authority by \$16,513 which is the amount of commission paid on State Lands Use Permits in the 2001 license year. **Gary Hamel** also suggested that the Committee might want to include contingency language on the passage of SB130.

SEN. TASH said that FWP and DNRC have reached a compromise on SB130, and the bill is currently being rewritten.

SEN. TASH moved that, contingent on SB130 being passed and subject to the LFD issues, that DP8213 be approved.

Discussion:

Gary Hamel suggested that the Committee could vote on DP8213 and that he would prepare a separate decision package to address the LFD issues. That would accommodate the funding amounts which are subject to change.

Gary Hamel said that \$460,000 would be in the decision package. As HB2 goes through the process and is amended, then the amounts would be changed through that amendment process. The LFD issue about reducing General License authority by \$16,513 addresses the fact that a commission is being paid on the sale of the land use permit. That amount should be removed if the license is incorporated in the sale of another license.

Motion/Vote: SEN. TASH moved that CONTINGENT ON PASSAGE AND APPROVAL OF SB130, DP8213 DO PASS. Motion carried 6-1 with REP. RIPLEY voting no.

{Tape: 2; Side: B; Approx. Time Counter: 24 - 30}

DP306

Gary Hamel began the budget proposals for the Fisheries Division with DP306, a request to replace computers. In the 2005 biennium, sixty-two computers are scheduled for replacement. Funding is a total of \$48,889 and \$54,375 and would be funded with Dingle-Johnson funds and General License fees.

CHAIRMAN PATTISON asked if the computers being replaced are used to upgrade other existing users.

Motion/Vote: SEN. SHEA moved that DP306 DO PASS. Motion carried 5-2 with REPS. PATTISON and RIPLEY voting no.

{Tape: 3; Side: A; Approx. Time Counter: 1 - 8}

Gary Hamel introduced a proposal for \$30,000 each year from General License account and Dingle-Johnson funding to fund costs associated with stocking trout at Echo Lake near Kalispell. The LFD issue with the package is that it has not been included in the Department budget but has been a one-time-only request since 1998. The stocking efforts do not seem to have been successful in establishing a viable trout fishery.

CHAIRMAN PATTISON asked for a motion for the decision package. No motions was made on the request.

(The Committee took no action on the decision package for funding the stocking of rainbow trout in Echo Lake.)

DP309

Gary Hamel said that DP309 was the internal service rate adjustments within the Department for increased travel expenses. The Fisheries Division request is for \$38,633 and \$30,685. A motion could be made to approve the remaining internal service rate adjustments for the rest of the Department.

Motion/Vote: SEN. SHEA moved that DP309, DP410, DP501, DP605, DP808 AND DP901, INTERNAL SERVICE RATE ADJUSTMENTS, DO PASS. Motion carried 6-1 with SEN. BUTCHER voting no.

DP310

Gary Hamel stated that DP310, hatchery operations was a request for an increase in hatchery operations by \$200,000 in FY04 and an additional six percent thereafter. The increase would be used for fish food, station utilities and maintenance. **Gary Hamel** clarified that the decision package does not contain a request for the purchase of equipment.

Chris Hunter, Administrator, Fisheries Division, said that the funds would be used for utilities, fish food, and transportation costs for moving the fish.

Motion/Vote: SEN. NELSON moved that DP310 DO PASS. Motion carried 7-0.

DP311

Gary Hamel said that DP311 was a request for funding for the Murray Springs Hatchery program for program development and maintenance.

Motion/Vote: SEN. SHEA moved that DP311 DO PASS. Motion carried 5-2 with SEN. BUTCHER and REP. RIPLEY voting no.

{Tape: 3; Side: A; Approx. Time Counter: 8 - 19}

DP312

Gary Hamel stated that DP312 addressed funding for Native Species Landowner Conservation program. The request is for General License Fund authority which will be used to match federal dollars to generate between \$80,000 and \$160,000 for projects centered on conservation of native fish. The federal programs require a nonfederal general fund match.

The LFD commented that if the Legislature wishes to ensure participation in a federal-based native fish conservation program, a restricted designation could be attached to the decision package if passed. In addition, the DP does not have

any stipulation that sportsmen are able to access those streams. Other programs within the Department that utilize sportsmen dollars have stipulations that sportsmen are able to access those particular programs.

Chris Hunter said that fish do return to the main tributary from a stretch of stream that is protected spawning habitat. This would provide opportunity for the angler. **CHAIRMAN PATTISON** commented that he was concerned with the use of general license dollars to improve habitat on private land where sportsmen do not have access.

REP. MUSGROVE asked if this project was part of the issues facing endangered species programs. **Chris Hunter** said that the cutthroat trout are species of special concern that are being considered for listing as endangered species by the federal government. These projects would help the fish so they would not become listed.

Chris Hunter confirmed with **REP. MUSGROVE** that it would be easier to address population problems with the species at this level rather than have the species listed as endangered by the federal agencies. Once listed as endangered, the restrictions on the fishing would be increased.

CHAIRMAN PATTISON commented if sediment from the areas that were burned causes problems with the fish and without addressing that problem, other projects are not as effective. **Chris Hunter** said that all landowners, including federal entities, are important in habitat management. The Department has worked with a group of federal, private and state landowners and developed an agreement on the management of west-slope cutthroat trout throughout the state.

SEN. TASH stated he had been involved with fish enhancement programs with FWP and the United States Fish and Wildlife Service(USFWS). The effort to promote fish habitat does not require fishing access but it does necessitate riparian preservation such as the fencing of stream stock watering areas. These collaborative practices and partnership efforts do help promote habitat preservation, and with the assistance of funding, the landowner is able to accomplish such things as fish ladders and stream bank stabilization.

Motion/Vote: **REP. MUSGROVE** moved that **DP312 WITH RESTRICTED DESIGNATION DO PASS**. Motion carried 4-3 with **SEN. BUTCHER, CHAIRMAN PATTISON,** and **REP. RIPLEY** voting no.

{Tape: 3; Side: A; Approx. Time Counter: 19 - 25}

PL313

Gary Hamel said that PL313 requests \$65,000 in each year of the biennium to fund two hatchery distribution trucks and to replace a fish tank. The LFD issue concerned the 51.5 percent increase in equipment expenditures in FY04 and a 72.2 percent increase in FY05.

CHAIRMAN PATTISON asked the director if, given the concern expressed over the percent of increase, if it would be possible to remove the General License money and still allow the Department to complete the purchases. **Director Hagener** said that authority to spend the federal funds would allow the Department to complete part of the purchases.

Motion/Vote: REP. PATTISON moved that DP313 WITH GENERAL LICENSE FUNDING REMOVED DO PASS. Motion carried 7-0.

DP210,211

CHAIRMAN PATTISON said the Committee was going to revisit DP210 and DP211, Private Landowner Technical Services and Collaborative Elk Management. **Director Hagener** said that the Department could use some of the funds from the variable priced license money for Block Management. In addition, Habitat Montana funds could be used. In some areas, those funds cannot be used. The Department suggested combining DP210 and DP211 into one decision package. The request would be for authority to spend \$10,000 of General License funds each year of the biennium plus \$30,000 of authority for either variable-price license or Habitat Montana funds.

Motion/Vote: REP. PATTISON moved that DP210 AND DP211 WITH \$10,000 OF GENERAL LICENSE FUNDS AND UP TO \$30,000 OF EITHER VARIABLE PRICE LICENSE OR HABITAT MONTANA FUNDS DO PASS. Motion carried 6-1 with REP. RIPLEY voting no.

PL314

Gary Hamel said that PL314, overtime adjustment, is a request to continue the overtime budget in the Fisheries Division at the level for the 2003 biennium. The LFD said that NP301 includes a request for an FTE which would result in fewer overtime or compensatory hours worked.

Motion/Vote: REP. RIPLEY moved that PL314 DO PASS. Motion carried 7-0.

{Tape: 3; Side: A; Approx. Time Counter: 25 - 30}

NP301

Gary Hamel said NP301 which is a request for an additional two FTE for technical support distributed between regions to assist fisheries biologists. The positions would review private pond permits, oversee stream bed protection and restoration projects, deal with recreation conflicts, and address introduction of aquatic nuisance species. The addition of the FTE would result in less overtime and fewer compensatory hours. **Gary Hamel** said that PL314 was an funding adjustment for overtime hours.

Kelly Gorin pointed out that the Department was already experiencing a shortage of about seven to eight fisheries' technicians.

CHAIRMAN PATTISON asked if the request for new FTE. **Gary Hamel** said that it was for two new FTE and that funding for the decision package is for \$97,000 in FY04 and \$102,00 in FY05 from General License and Dingle-Johnson funding.

Chris Hunter said that he would give up PL314 if this request were to be funded.

{Tape: 3; Side: B; Approx. Time Counter: 1 - 7}

Motion: SEN BUTCHER moved that PL314 BE WITHDRAWN AND THAT NP301 BE FUNDED FOR ONE FTE.

Discussion:

REP. MUSGROVE asked if the funding one NP301 would be reduced by half with the exclusion of one of the requested FTE. **Gary Hamel** stated that SEN. BUTCHER's motion would be to eliminate the approval of DP314 and reduce NP301 to one FTE, which would reduce the funding by approximately one-half.

Kelly Gorin stated that the matching federal dollars would be lost.

SEN. SHEA asked if the entire federal funding would be lost. **Gary Hamel** explained that the federal funding was proportionate to two FTE, so approximately half of the funding would be lost.

Doug Schmitz stated the funding switch for the decision package will remain the same on whatever is left.

Substitute Motion/Vote: SEN. BUTCHER moved APPROVAL OF PL314 BE WITHDRAWN AND NP301 BE APPROVED WITH FUNDING FOR ONE FTE DO PASS. Motion carried 5-2 with SEN. NELSON and SEN. SHEA voting no.

Gary Hamel stated that the next request was for an onsite Fort Peck Hatchery Manager to oversee construction of the site. He raised the issue of the amount of equipment in this request in light of the amount of equipment requests in other decision packages.

CHAIRMAN PATTISON asked Chris Hunter the status of the Congressional funding. **Chris Hunter** said that it was his understanding that an omnibus bill that proposed \$7.8 million in funding for the Fort Peck Hatchery was in the Senate. **Gary Hamel** said that the funding for this request would be from the Warm Water Fish Stamp at \$100,000 in FY04 and \$200,000 in FY05 for equipment, supplies, materials as well as one FTE. The project is contingent on the federal legislation.

Motion/Vote: SEN. NELSON moved that CONTINGENT ON THE PASSAGE OF THE RELATED FUNDING IN THE FEDERAL OMNIBUS BILL, FUNDING AS PROPOSED FOR THE FORT PECK HATCHERY DO PASS. Motion carried unanimously.

{Tape: 3; Side: B; Approx. Time Counter: 7 - 12}

DP304

Gary Hamel said that DP304 is a request to conduct roving creel surveys. In the 2001 Legislative session the Department had indicated that they would not do the roving creel surveys in order to fund the alternative pay plan reductions. Eighteen thousand dollars of General License authority was removed from the Fisheries Division's base. This request would replace the \$18,000 and add an additional \$7,000.

Chris Hunter said that in the last couple of years, the Fisheries Division has prepared management plans for Flathead Lake, Fort Peck, and for the three reservoirs on the Missouri River near Helena. In every case anglers made it very clear that they wanted to see creel surveys conducted.

{Tape: 3; Side: B; Approx. Time Counter: 12 - 22}

SEN. BUTCHER asked if wardens patrolling the waters could do the survey, or if biologists could travel with the wardens to conduct the counts. **Chris Hunter** replied that such a procedure would not be statically valid.

SEN. TASH said that he would move the passage of DP304 contingent on the elimination of the FTE equivalent of \$18,000 of General License dollars.

Chris Hunter said the decision package did not contain funding for an FTE. The funding would be for contracted services. **Gary Hamel** said the alternatives would be to reduce operations cost by \$18,000 General License Account or reduce the equivalent of one FTE. The FTE equivalent reduction would not have to come from this particular area.

SEN. BUTCHER asked when the last creel survey was done. **Chris Hunter** said that the Division does several creel surveys a year. The current budget is not adequate for the number of surveys needed. The funding request would allow the Division to do the surveys in the areas mentioned.

REP. MUSGROVE stated that in effect, the people who are paying to have this done are asking that it be done. **Chris Hunter** said that was correct.

SEN. BUTCHER asked if the money would just sit there if it was not spent for this project. **Director Hagener** said that was correct. **SEN. BUTCHER** suggested that maybe license fees had crept up and that they could be reduced.

Gary Hamel said the Legislature could reduce license fees. Along with the whole General License account discussion, the Legislature could reduce expenditures to prolong the General License fee account, or they could reduce license fees. The options are not as easy as reducing spending here because that would require statutory change.

SEN. BUTCHER summarized, stating that by reduced the spending, the license fees won't be increased in a couple of years. The General License fund would be spread out. **Gary Hamel** stated that reductions in spending could increase the projection in the ending fund balance of the General License Account. Reductions in spending would potentially lengthen the time between fee increases.

Kelly Gorin pointed out that reducing the spending from the General License account by one-fourth would reduce services by three times that amount. **SEN. BUTCHER** commented that the spending is still sportsmen's dollars, even if the money comes through the federal government.

Chris Hunter said that the resident fishing license fee has not increased since 1991. The price is the lowest in the area.

{Tape: 3; Side: B; Approx. Time Counter: 22 - 30}

Doug Schmitz said that creel surveys are a management tool that the Department uses to determine the health and viability of the fishery. Because the Department used the creel surveys as a means of funding the alternative pay plan at that time, does not mean that creel surveys should be forgotten.

Gary Hamel pointed out that it is Legislative prerogative for the Division to get into that business. The roving creel survey was one of the projects the Division offered up to fund the alternative pay plan.

SEN. TASH reiterated his motion to accept DP304 based on removing the FTE equivalent of \$18,000 of General License dollars. **Gary Hamel** asked if it was acceptable to SEN. TASH if the actual reduction was slightly above or below the \$18,000. **SEN. TASH** said that was acceptable.

Chris Hunter said that the technicians who do the surveys are usually a Grade 8. He said he was assuming that when the reduction was made, that particular FTE that would be reduced proportionately. **Gary Hamel** said the Committee did not have to designate which FTE was reduced or that the FTE had to be from fisheries. It would be an equivalent reduction from an FTE against the General License account. **Director Hagener** asked that the Committee define what the reduction meant. He said that \$18,000 against a Grade 18 is a lot different than an \$18,000 against a Grade 8.

Gary Hamel said the Department could choose which FTE would be equivalent to the \$18,000.

{Tape: 4; Side: A; Approx. Time Counter: 1 - 3}

Chris Hunter asked if the Committee was asking the Department to take an FTE away in order to fund part of the project. **CHAIRMAN PATTISON** said that if the Department was to look at the General License account, and review the available funds for FTE, and then remove \$18,000 from that total account, they would satisfy the Committee's intent. **Gary Hamel** said an example would be the elimination of vacant positions in an amount equivalent to \$18,000. **Chris Hunter** said he had no problem reducing the General License amount by \$18,000, but to take FTE is a real

concern. **CHAIRMAN PATTISON** clarified that the FTE does not have to be removed from the Fisheries Division.

Doug Schmitz said that personal services can be reduced from the General License account without impacting an FTE. **Gary Hamel** stated that reducing personal services by \$18,000 from the General License is short term in nature. If it is the intent of the Committee to permanently reduce personal services by \$18,000, the Committee would need to remove the FTE.

Motion/Vote: SEN. TASH moved that DP304 WITH \$18,000 OF FTE EQUIVALENT BE ELIMINATED DO PASS. Motion carried unanimously.

{Tape: 4; Side: A; Approx. Time Counter: 3 - 8}

NP305

Gary Hamel said the NP305, Fishing Access Site Assistance Program, contains a request to reestablish funding which was OTO by the 2000 Legislature. Funding would allow regions to contract with an individual who would patrol private sites, conduct minor maintenance, provide law suit protection and make contact with anglers and landowners.

Gary Hamel stated that the LFD issue addresses the fact that FAS Assistance Program was established by the 2001 Legislature, and was funded by OTO authority to provide compensation to landowners who provide angling access opportunities. The compensation would be to mitigate angler impacts such as litter and noxious weed.

It is difficult to measure the effectiveness of this program because it was authorized as a OTO through the trial period of the 2003 biennium and during that period, the Department signed four contracts in exchange \$35,000 of compensation. Only anecdotal evidence exists to document an increase in the number of anglers accessing private land as a result of the program.

The Committee should consider the potential growth of the program. The Department has indicated this will be a popular program and the Legislature might expect to see future requests for increased funding. The program is modeled after the Block Management Program and over the last several years, the Legislature has attached a fee to the resident conservation license to accommodate demand for Block Management program participation.

The LFD then stated that this is a new program with a limited amount of data upon which conclusions of success can be drawn.

If the Legislature wants to play a major role in the direction of this program, it may wish to direct the program to develop a plan for gathering data that the Legislature could use to assist in their decision-making process. Several options could be considered. The Committee could choose to not fund the decision package. This option would limit the Department's growth in a new direction. The Committee could approve the decision package with some restrictions such as limiting the size. Also, the Committee could require the Department to develop a growth plan which shows program growth and funding and impacts upon Department resources and require that the Department report back to the 2005 Legislative session. In addition the Committee could restrict spending to this purpose and designate any authority as one-time-only in nature. The Committee could approve the package as requested. Any subsequent program growth and funding alternatives could be addressed in future legislative sessions.

{Tape: 4; Side: A; Approx. Time Counter: 8 - 14}

Chris Hunter stated that the program was established last session by a bill brought forward by Representative Fuchs. The program sunsets in March of 2006. The Department was seeking to continue the funding that was initiated last biennium.

CHAIRMAN PATTISON asked for clarification on the progress of the program to date. **Chris Hunter** stated \$35,000 was spent in the first year of the program. The total appropriated was \$50,000. Four leases have been signed with the duration of the leases between ten to two years. The Department pays the lessee to do the litter and weed control.

REP. RIPLEY asked the amount of the average contract. **Chris Hunter** said that there is a ten-year lease on a pond near Twin Bridges for a total of \$6000, a lease for public use of boat launch on the Bitterroot River for \$500 year for one year, a lease for access to a pond by Miles City for \$15,000 for ten years and a lease for access for three miles access on the Beaverhead River for \$6500 a year for two years.

SEN. NELSON asked if the people stocked the ponds themselves. **Chris Hunter** said that people who have the Department stock the ponds have to allow public access.

{Tape: 4; Side: A; Approx. Time Counter: 14 - 22}

SEN. TASH asked for confirmation that the lease on the Beaverhead was for bank fishing as stream access was already allowed by law. **Chris Hunter** confirmed that was correct.

CHAIRMAN PATTISON asked if the full amount of the lease was paid at the time of signing. **Chris Hunter** confirmed all the leases had been paid in full with the \$35,000 expended.

REP. MUSGROVE asked why growth was bad in this instance.

Gary Hamel clarified that he had pointed out the fact that the program was growing to allow the Legislature to decide if they want the Department to move in that area and to do those functions.

REP. MUSGROVE stated that Montana has some of the best fishing in the United States, and that expansion would benefit the state in some way. Such an increase would cause an impact. This might be an area for growth. He noted that the decision package has a sunset date.

{Tape: 4; Side: A; Approx. Time Counter: 22 - 30}

SEN. TASH asked if the lease included protection from law suits. **Chris Hunter** said that was correct.

CHAIRMAN PATTISON said that he was concerned that the Department spent \$35,000 for four leases during the first year and was now seeking \$50,000 for the second year. **Chris Hunter** said that when the program was first established, the Department did not have the opportunity to inform landowners about the program. During the second year the rules had been set, and now the Department anticipates more participation in the program.

SEN. TASH asked if the legislation is limited to fishing. **Chris Hunter** confirmed that the program was for fishing access site enhancement only.

Motion/Vote: **REP. MUSGROVE** moved that DP305 ONE-TIME-ONLY RESTRICTED DO PASS. Motion failed 3-4 with **REP. MUSGROVE**, **SEN. SHEA** and **SEN. NELSON** VOTING aye.

Motion/Vote: **REP. MUSGROVE** moved that DP305 FOR \$25,000 ONE-TIME-ONLY RESTRICTED DO PASS. Motion carried unanimously.

DP308

Gary Hamel said that DP308, Prairie Riparian Study, was a request for one-time-only authorization from the Wildlife Conservation Restoration Program to determine the presence and distribution of fish, amphibians, reptiles, birds and mammals in randomly selected prairie streams associated riparian grassland habitats in eastern Montana. The request is for FY04 only, and the work would be contracted with Montana State University(MSU). The funding is for a total of \$79,868 with \$20,000 from General License and the remainder for \$60,000 of federal funding.

CHAIRMAN PATTISON asked for clarification on the federal funding. **Chris Smith** said that Montana's portion of the federal omnibus bill contained about \$800,000 or \$900,000 in funding.

REP. MUSGROVE asked if concern existed about the various populations. **Chris Hunter** said that little was known about the streams because they do not contain sport fish and few game species are in the areas. **REP. MUSGROVE** stated he noted fewer frogs, and that he believed that meant something was happening in the area. **Chris Hunter** stated there had been a world-wide decline in amphibians, frogs in particular, and that a lot of studies are being done.

SEN. BUTCHER said he was a little worried about funding another spotted owl study. **Chris Hunter** said the funding for the study was authorized last session. The Department entered into a contract with MSU to conduct the work, and the contract extends through the end of FY03. The Department is asking to reauthorize that funding so that the Department can finish out the contract. Work is ongoing.

{Tape: 4; Side: B; Approx. Time Counter: 1 - 10}

REP. MUSGROVE commented that the study of the amphibians could prove important for many purposes. **CHAIRMAN PATTISON** commented that he felt some of the changes should be attributed to the drought. **SEN. TASH** said that climate is one influence on populations, and that the populations often rebound of their own such as the gopher population.

CHAIRMAN PATTISON asked about the progress of the program to date. **Chris Hunter** said that some work has been done, but no report will be forthcoming until the end of the program.

REP. RIPLEY asked for the source of the federal funding. The fund is called Conservation Reinvestment, and such funding does require a match.

SEN. BUTCHER commented on the number of students who would be working on the project, and if the individual in charge was going to end up with a published paper. **Chris Hunter** said the individual is under contact and is not seeking to be published.

Motion: REP. MUSGROVE moved that DP308 ONE-TIME-ONLY RESTRICTED DO PASS.

Discussion:

SEN. TASH suggested the decision package be approved with the Department being directed to match the federal funding with some other source. **Gary Hamel** said that another source of state funding was available, REP. MUSGROVE's motion could be changed. **Chris Hunter** said he was not aware of other funding that could be used for this project. **Director Hagener** said that if Montana does not spend the federal funding, other states would be more than happy to do so.

Motion/Vote: REP. MUSGROVE moved that DP308 ONE-TIME-ONLY RESTRICTED DO PASS. Motion failed 3-4 with SEN. SHEA, SEN. NELSON and REP. MUSGROVE aye.

ADJOURNMENT

Adjournment: 12 P.M.

REP. JEFF PATTISON, Chairman

ELAINE G. OLSEN, Secretary

JP/EGO

EXHIBIT (jnh21aad)